

REMARKS

Claims 1-8 and 20-25 are pending. No new matter has been added by way of the above amendments. For instance, claim 1 and claim 20 have been amended to require that the aqueous liquid in step (a) is either an aqueous liquid (i) or an aqueous liquid mixture of (i) and (ii). This amendment is supported by originally filed claim 1 as well as the present specification at page 3, third full paragraph. Newly added claims 22-25 are supported by pending claims 1 and 20. Lastly, non-elected claims 9-19 have been cancelled. Accordingly, no new matter has been added.

Applicants further submit that no new issues have been raised by way of the present amendment. For instance, the amendments to claims 1 and 20 simply clarify that step (a) utilizes either aqueous liquid (i) or an aqueous liquid mixture of (i) and (ii). Newly added claims 22-25 claim one of these two alternative aqueous liquid(s). These issues have been previously considered by the Examiner as evidenced by the Examiner's comments at page 5, lines 6-14 of the outstanding Office Action. Also, this subject matter has been present in part in claims 2-7 and 21. Accordingly, no new issues have been raised which would require additional search and/or consideration on the part of the Examiner.

In the event the present submission does not place the application into condition for allowance, entry thereof is respectfully requested as placing the application into better form for appeal.

In view of the following remarks, the Examiner is requested to withdraw all rejections and allow the currently pending claims.

Issues Under 35 U.S.C. § 103(a)

The Examiner has rejected claims 1 and 8 under 35 U.S.C. § 103(a) as being obvious over Aoki et al. (Clinica Chimica ACTA (Dec 15 1988) 178(2) 193-204) in view of Voet et al. (Biochemistry 1990) and Aoki et al., (JP 11151085A) (Aoki-JP). Applicants respectfully traverse this rejection.

The Present Invention

Claim 1 of the present invention relates to a method of immunologically measuring the human medullasin content in blood. One step in the method of claim 1 involves the use of an aqueous liquid (i) or an aqueous liquid mixture of (i) and (ii) as follows:

- (i) an aqueous liquid, which contains 0.05 mole % or more or 0.005 mole % or less of a solute, having an

osmotic pressure of 250mOsm/kg•H₂O or less or an aqueous liquid having an osmotic pressure of 310mOsm/kg•H₂O or more;

(ii) an aqueous liquid comprising a hemolysate.

Claim 20 of the present invention also relates to a method of immunologically measuring the human medullasin content in blood and involves the use of an aqueous liquid (i) or a mixture of aqueous liquids (i) and (ii) as follows:

(i) an aqueous liquid having an osmotic pressure of 250mOsm/kg • H₂O or less or an aqueous liquid having an osmotic pressure of 310mOsm/kg • H₂O or more;

(ii) an aqueous liquid comprising a hemolysate selected from the group consisting of higher fatty acid salts, alkylaryl sulphonates, alkyl sulphonates, alkyl sulphate ester salts, alkyl pyridinium salts, polyoxyethylene alkylphenyl ethers, polyoxyethylenealkylethers, polyoxyethylene sorbitan fatty acid esters and alkyl betaines.

The prior art cited by the Examiner fails both individually and as a whole to suggest or disclose the use of the aqueous liquid(s) as recited in claims 1 and 20. The Aoki reference is

silent as to a method for destroying leukocytes by an aqueous liquid in the pretreatment of an enzyme immunoassay for medullasin. Voet is completely silent concerning the use of an aqueous liquid (i) or an aqueous liquid mixture of (i) and (ii) as recited in steps (a) of either claim 1 or claim 20. Lastly, Aoki-JP is silent concerning a pretreatment step. Accordingly, Applicants respectfully submit that there is no *prima facie* case of obviousness. That is, one of ordinary skill in the art is provided with no motivation to arrive at the presently claimed subject matter. Accordingly, this rejection is moot. Reconsideration and withdrawal thereof are respectfully requested.

The Examiner has also rejected claims 2-5 and 7 under 35 U.S.C. § 103(a) as being obvious over Aoki, Voet and Aoki-JP, further in view of Lapicola, USP 4,745,071. Applicants respectfully traverse this rejection.

The additional citation of Lapicola, USP 4,745,071, fails to cure the deficiencies of the Aoki, Voet and Aoki-JP references as discussed above. Accordingly, claims 2-5 and 7 are patentable over the cited art for the same reasons as discussed above.

In summary, Applicants respectfully submit that the present claims are in condition for allowance. Reconsideration and withdrawal of all rejections are respectfully requested.


If the Examiner has any questions or comments, please contact Craig A. McRobbie, Reg. No. 42,874 at the offices of Birch, Stewart, Kolasch & Birch, LLP.

Pursuant to the provisions of 37 C.F.R. §§ 1.17 and 1.136(a), the Applicants hereby petition for an extension of one (1) month to February 20, 2004 in which to file a reply to the Office Action. The required fee of \$110.00 is enclosed herewith.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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Attachment(s)